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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,389	04/07/2004	Keith E. Barr	542262000200	8442
20872	7590	04/20/2005		EXAMINER
MORRISON & FOERSTER LLP				REIS, TRAVIS M
425 MARKET STREET				
SAN FRANCISCO, CA 94105-2482				
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/820,389	BARR, KEITH E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Travis M. Reis	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20040614</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 700. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 & 7-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Brunson et al. (U.S. Patent 4422243).

4. Brunson et al. discloses an inclination measurement and display device (1) and method of using comprising a conductive chamber (2) having an inner wall (4) and an outer wall (6) containing a dielectric fluid (3), at least three electrode conductive plates (7-10) spaced approximately equidistantly from the inner and outer walls immersed in said fluid (Figure 1); a processing module/microcontroller/controllable switch (48) configured to measure capacitance between each of the electrode conductive plates and the conductive

chamber and to determine an overall angle of inclination and the direction of inclination of the chamber values in a first and second axis; a display (14) for displaying a numerical value corresponding to the overall angle of inclination and further comprising indicators (50) positioned radially around the center of said device for the indication of the direction of inclination; and an oscillator (43) (Figure 5).

5. Claims 1, 3-8, & 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Cantarella et al. (U.S. Patent 4167818).

Cantarella et al. discloses an inclination measurement and display device (10) and method of using comprising a conductive chamber (17) having an inner wall (E) and an outer wall containing a dielectric fluid (19), at least three electrode conductive plates (A, B, C, D) spaced approximately equidistantly from each other and from the inner and outer walls immersed in said fluid (Figure 2); a processing module (24) configured to measure capacitance between each of the electrode conductive plates and the conductive chamber and to determine an overall angle of inclination and the direction of inclination of the chamber values; and a display (18) for displaying a numerical value corresponding to the overall angle of inclination and an indication of the direction of inclination in two non-parallel directions (Figure 1).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Whalton discloses an electric switch mechanism (U.S. Patent 1007998). Clayton discloses an incline indicator (U.S. Patent 1375278). Wilcox discloses a capacitance leveling cell (U.S. Patent 2711590). Remington et al discloses a vertical sensor (U.S. Patent 3442023). Wiklund et al. discloses an electronic leveling cell (U.S. Patent 4521973). Ekchian et al. discloses a liquid medium capacitive displacement sensor (U.S. Patent 4624140). Ryan

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et al. discloses an inclination sensor (U.S. Patent 4846954). Donati et al. discloses an electrical sensor and a monitoring circuit for the sensor (U.S. Patent 4937518). Carlson et al. discloses a capacitive gravity sensor and inclinometer (U.S. Patent 5237753). Cheah discloses an inclinometer sensing circuitry and operation (U.S. Patent 5428902). Crossan discloses a dual axis electrolytic tilt sensor and also discloses a thermocouple tilt sensing device (U.S. Patents 5630280 & 6453571).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Travis M Reis  
Examiner  
Art Unit 2859

tmr  
April 15, 2005



Diego Gutierrez  
Supervisory Patent Examiner  
Technology Center 2800

CHRISTOPHER W. FULTON  
PRIMARY EXAMINER